

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**PATRICK DAILEY and HELEN
DAILEY,**

Plaintiffs,

v.

MANUEL ALVARADO, et al.,

Defendants.

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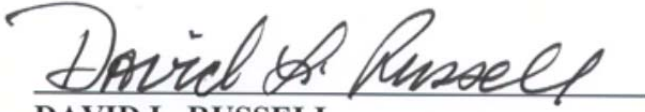
Case No. CIV-14-417-R

ORDER

This matter is before the Court pursuant to the Order entered November 13, 2015, [Doc. No. 48] wherein Plaintiffs were ordered to show cause on or before November 23, 2015, why their claims against Defendants Barry G. Sell and Mechanical Technologies By Barry LLC should not be dismissed for failure to timely serve. On November 24, 2015, Plaintiffs responded to the Order [Doc. No. 50] and filed their returns of service [Doc. No. 51] indicating service upon the two Defendants in question was made on April 27, 2014. Plaintiffs then were directed by Court Order entered December 3, 2015 to show cause within ten days if they intended to pursue default judgment against these Defendants; otherwise, the claims against these Defendants would be dismissed for failure to prosecute pursuant to F.R.Civ.P. 41(b). On December 14, 2015, Plaintiffs responded [Doc. No. 54], indicating that “they intend to file motions for said default judgments within one week from the date hereof” Nothing has been filed in this case since Plaintiff’s Response, approximately 70 days prior hereto. “A trial court may, . . . on its own motion, dismiss an action for failure of the plaintiff to prosecute it with **reasonable** diligence.” *S.E.C. v.*

Power Res. Corp., 495 F.2d 297, 298 (10th Cir. 1974) (emphasis added). The undersigned finds that Plaintiffs have had sufficient time within which to move for default judgment against Defendants Barry G. Sell and Mechanical Technologies by Barry LLC, and therefore this action against said Defendants is DISMISSED for failure to prosecute pursuant to F.R.Civ.P. 41(b).

IT IS SO ORDERED this 22nd day of February, 2016.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE